HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION NO. 32977 OF 1997

BETWEEN

K. Sambaiah & others

.....**Petitioners**

And

Secretary to Government of India,
Ministry of Home Affairs,
New Delhi & others

.....**Respondents**

:: O R D E R::

Counsel for the Petitioners : None

Counsel for the Respondents : Shri A. Rajasekhar Reddy
Assistant
Solicitor General

Dated: 08.08.2006

In this petition, the petitioners have prayed for issue of a

mandamus to the respondents to grant pension under Swatantrata Sainik Samman Pension Scheme, 1980 (for short 'the 1980 Scheme').

Although no one has appeared on behalf of the petitioners, I do not consider it desirable to defer the adjudication of the writ petition, which has remained pending for last almost ten years.

A perusal of the record shows that while admitting the writ petition on 16.12.1997, the learned Single Judge passed an interim order in terms of order dated 12.12.1997 passed in Writ Petition No.28861 of 1997. For the sake of convenience, order dated 12.12.1997 passed in Writ Petition No.28861 of 1997 and batch is reproduced below:

> " These writ petitions have been filed seeking a direction to the Government of India to place applications of the petitioners received by the Government before the Chairman of the Hyderabad Freedom Fighters Special Screening Committee. Since the common questions of fact and law have been raised in these petitioners I heard the learned counsel for the parties at length in these matters.
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> All the petitioners are old aged people claiming the Freedom Fighters pension. The petitioners have given the basis for claiming Freedom Fighters Pension in their writ petitions. They submit that, Pension scheme for the Freedom Fighters has been amended and liberalised in the year 1970 and it is now called as "Swathantra Sainik Samman Pension Scheme, 1980". They further submit that, under the rules if the claimants are in a position to prove that they have suffered more than 6 months imprisonment either through the official documentary evidence or through the personal knowledge, commonly known as border camp incharge certificate, are entitled to freedom fighters pension. Where there is record to show that particular person was entitled to the

scheme, the Government of India is bound to sanction the pension. But, where there is no record it was decided that a Screening Committee would consider and scrutinize those applications. The Screening Committee is nominated by the Ministry of Home Affairs.

These matters have also come up earlier before this Court and various orders have been passed by this Court. I had directed the counsel for respondents to file their counters, but it appears that they were not able to file counters till ate. A Judgment of Division Bench passed by this Court was cited before me which is passed in W.P.NO.10700 of 1997 on 22.08.1997 title POLLURU RAMANJANEYA & OTHERS Vs. DY. SECRETARY, MINISTRY OF HOME AFFAIRS. The following directions were passed by the Division Bench:-

" The Freedom Fighters Division in the Ministry of Home Affairs, Government of India, will after considering the applications of the petitioners herein forward the same to the Screening Committee, appointed by the Government of India for the purpose of enquiring into the claims of Freedom Fighters, and the Screening Committee in accordance with the procedure laid down shall examine the claims of the petitioners, and on the basis of the recommendations of the Screening Committee, the Government of India will pass appropriate consequential orders. This exercise should be done as expeditiously as possible, in any event not later than eight weeks from the date of receipt of copy of this order. The writ petition is accordingly disposed of."

I have also been shown the Judgments of Supreme Court in MUKUNDLAL BHANDARI Vs. UNION OF INDIA (AIR 1993 SC 2127) and UNION OF INDIA Vs. R.V. SWAMY (1997 (4) supreme 33).

Considering all these orders, I am of the view that these petitions need be admitted to formal hearing. The respondents are directed to file counters

within a period of four weeks so that the matter comes up immediately for final hearing.

The petitioners who claimed to be Freedom Fighters are all aged persons and it is needed that the matters are decided at the earliest. Therefore, I direct that these writ petitions be listed for final hearing in the last week of January, 1998.

In the meantime, it will serve the purpose of justice if the directions are given to the respondents similar to the directions given by the Division Bench earlier. Therefore, I direct that all those applications which have been received by respondent No.1 i.e. Government of India shall be placed along with their recommendations before the Screening Committee in any case before 31st of December, 1997 and the Screening Committee shall take a decision in accordance with the norms fixed. If, however, in any case application filed is not traceable, the petitioners shall file a fresh application within one week. The Screening Committee shall remain functional till matters pertaining to the petitioners are considered by it.

This order shall remain subject to final outcome of these writ petitions."

Shri A. Rajasekhar Reddy, learned Assistant Solicitor General invited my attention to the recommendations made by the Screening Committee headed by Shri Ch. Rajeswara Rao to show that the recommendations for grant of pension to the petitioners were not made because the applications filed by them were not available. He then invited my attention to paragraph 19 of the counter-affidavit of Shri S.D.Kaushik, Under Secretary in the Ministry of Home Affairs and submitted that if the petitioners submit applications even at this belated stage for grant of pension under the 1980 Scheme, then the same would be considered by the

competent authority and disposed of in accordance with law.

In view of the statement made by the learned Assistant Solicitor General, the writ petition is disposed of with the direction that if the petitioners or any one of them submits application(s) along with documentary evidence to show that he belong to the category of freedom fighters, i.e. persons who had taken part in Hyderabad Liberation Movement, then the competent authority shall examine the same and pass appropriate order within three months from the date of receipt of the application(s).

G.S.SINGHVI, CJ

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08.08.2006